

**From:** [Pfeifer, David](#)  
**To:** [Kessler, Katrina \(MPCA\)](#); [Holst, Linda](#); [Tomasek, Mark \(MPCA\)](#)  
**Cc:** [Heiskary, Steven \(MPCA\)](#)  
**Subject:** RE: eutrophication standard challenge  
**Date:** Thursday, January 15, 2015 7:56:00 AM

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Thanks for the clarification. I guess I was tired last night because I had thought about it for a second, I would have realized you can't get a dismissal or summary judgment at this point in the process.

David Pfeifer  
Water Quality Standards  
USEPA Region 5  
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**From:** Kessler, Katrina (MPCA) [mailto:[katrina.kessler@state.mn.us](mailto:katrina.kessler@state.mn.us)]  
**Sent:** Thursday, January 15, 2015 7:52 AM  
**To:** Holst, Linda; Pfeifer, David  
**Cc:** Heiskary, Steven (MPCA)  
**Subject:** eutrophication standard challenge

Good morning Dave and Linda:

As a follow up to Dave's voicemail I wanted to let you know that unfortunately the lawsuit has not gone away. MESERB previously petitioned the court to expand the administrative record to documents beyond what was included in the rulemaking record. We heard learned this week that the judge denied that petition. So the merits of the legal challenge will be based on the existing rulemaking record alone. Briefs are due to the court from MESERB in February and MPCA in March. Please let me know if you have any questions.

Thanks!

**Katrina Kessler, P.E.**

Water Assessment Section Manager • Minnesota Pollution Control Agency • 651 757-2490

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